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SUBJECT: MAS TRAMPLES CONSTITUTION AND HUMAN RIGHTS

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1B. LA PAZ 374
1C. 08 LA PAZ 2569
1D. 08 LA PAZ 2464

Classified By: A/EcoPol Chief Brian Quigley for reasons 1.4 (b, d)

11. (C) Summary: President Evo Morales, his ruling Movement Toward Socialism (MAS) party, and affiliated social groups continue to use authoritarian measures to implement a so-called "democratic revolution," including the initiation of legal proceedings against Supreme Court President Eddy Fernandez, a lawsuit against a leading newspaper for alleging MAS party corruption, a threatened "community takeover" of both former opposition Prefect (governor) Leopoldo Fernandez's and opposition Senator Roger Pinto's properties, continued inaction regarding the violent takeover of former Vice President Victor Hugo Cardenas' home, and a potential siege ("cerco") of Congress by MAS supporters to pressure the opposition-controlled Senate to pass the electoral transition law. Without Eddy Fernandez, the Supreme Court will not have a quorum and will be essentially defunct. In addition, Morales dismissed formal complaints of government attacks on press freedom and human rights brought before the Inter-American Commission on Human Rights March 20. Morales continues to aggressively target and persecute those who oppose his "revolution," including an already-embattled judiciary, civic leaders, opposition lawmakers, potential presidential contenders, and the press. End summary.

MAS Threatens to Bring Down Supreme Court

12. (U) The Constitutional Affairs Committee of the MAS-controlled lower house of Congress voted March 19 to open legal proceedings against Supreme Court President Eddy Fernandez for denying or delaying justice, most importantly in the "genocide" case against former President Gonzalo "Goni" Sanchez de Lozada. Once the lower house votes to accept the committee's recommendation, Fernandez will be suspended from duty, and the twelve-member court will be reduced to seven active magistrates, one fewer than necessary for a quorum. Government Coordination Vice Minister Rebecca Delgado on March 23 said: "We know he has had public and

private meetings conspiring against the executive branch, and that this has been a pronouncedly political act. He has political aspirations. Correspondingly, the ethical thing to do is renounce his position and announce his presidential candidacy." MAS Senator Ricardo Diaz added that according to the constitution no new magistrates can be appointed until the new Plurinational Assembly is seated and passes a law regarding judicial appointments, which would not occur until sometime in 2010.

¶3. (U) Opposition leader Samuel Doria Medina criticized the action, saying: "The government wants to have the judicial branch, wants to have the (National) Electoral Court, in order to always win and to not have to respect the laws. It is important to have separation of powers, to respect the judicial process because, to the contrary, we are now coming increasingly closer to an authoritarian government."

¶4. (C) Two other parts of the judicial branch, the Constitutional Tribunal and the Judicial Council, are already essentially defunct. The MAS used a campaign of intimidation, salary cuts, and legal proceedings to reduce the Constitutional Tribunal from ten members to only one, where it has remained since the end of 2007 (Reftel D). The Constitutional Tribunal now has a backlog of more than 3,500 cases. The Judicial Council is in a similar situation, with only two out of five members (and three needed for a quorum) and a backlog of over 100 disciplinary cases.

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Don't Say That! Morales Sues the Press
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¶5. (U) President Morales followed up his prior December 10, 2008 public humiliation of a reporter for publishing a story regarding potential involvement by Morales and Presidency Minister Juan Ramon Quintana in a contraband corruption scandal (Reftel C) with a formal lawsuit against the newspaper itself, leading local daily La Prensa. On December 9, 2008, La Prensa published a story with the headline "Evo Negotiated Green Light with Contrabandists." Morales publicly denounced the story and its author, saying "We have this class of newspapers and of journalists who lie and lie." Morales directed his administration on March 21 to sue La Prensa on charges of slander. Local and international NGOs, including the Bolivian National Press Association, are backing La Prensa, and the paper itself has published editorials maintaining its innocence and the factual nature of the story.

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More (Illegal) Communitarian Justice?
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¶6. (U) Popular radio and television show host Carlos Valverde reported March 23 that campesinos had met in the city of Cobija (in the department or state of Pando) and decided to take the properties of ex-Prefect Leopoldo Fernandez and opposition Senator Roger Pinto, according to their supposed "communitarian justice" traditions. Valverde further reported that Presidency Minister Quintana attended the meeting. This possible action, which would be in retribution for Fernandez's and Pinto's alleged involvement in the September 11, 2008 Pando violence, follows a national wave of "communitarian justice," including the March 3 beating of ex-MAS dissident diputada Marlene Paredes' and the taking of her property, the March 7 violent takeover of former Vice President Cardenas's home, and the public threat March 11 by Confederation of Eastern Bolivian Indigenous Communities (CIDOB) President Alfredo Chavez to "draft (our) own indigenous law" and "apply communitarian justice on (Santa Cruz Civic Committee Leader Branko) Marinkovic and (Santa Cruz Prefect Ruben) Costas" (Reftels A, B).

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Meanwhile, No Government Support for Cardenas
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¶7. (U) More than two weeks after the March 7 "community takeover" of Cardenas' home that left his wife, son, and nephew injured and his property ransacked, there has been little government action to remove the squatters and restore the property to the Cardenas family. Leading local daily La Razon reported March 18 that Foreign Minister David Choquehuanca had received demarches from Great Britain and the European Union, and that the UN had made a formal statement deplored the illegal and violent takeover.

Cardenas has publicly requested help from the government, "as they are responsible for security in the country, to respect private property" and return his property. Nevertheless, Choquehuanca maintained the problem was "a community issue."

¶8. (C) In a March 13 meeting with Cardenas' backer and political strategist Javier Flores, Flores said they "knew Morales himself ordered this action" and that strong international pressure had resulted in the government's subsequent repudiation, in public at least, of the takeover. "The international community is deaf, dumb, and blind normally; it is a tragedy it had to come to this, but even they could not ignore these events. The UN's letter and the international visits made the difference" in the government's changed public stance. Flores stressed Cardenas did not want retribution or for anyone to go for jail. "He just wants his house back. With the loss of his house, he is losing his roots as an Aymara community member."

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MAS-Supported Siege of Congress Looms
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¶9. (U) According to the constitution, Congress is required to pass before April 8 a law defining the parameters of the upcoming December 6 national elections, including the allotment by region of the seats in the lower house and the number of special indigenous seats. The lower house approved its version of the proposed legislation on March 23, and the opposition-controlled Senate is expected to modify the bill significantly before passing it. MAS-supported social groups have announced that the Senate has until April 1 to pass the law, otherwise they will surround the Congress until a bill is passed.

¶10. (C) The legislation as drafted will meet with significant opposition in the Senate for a number of reasons. First, the 130 seats in the lower house are supposed to reflect the country's population, i.e. larger population centers receive more seats. However, the division of seats has historically been weighted disproportionately in favor of the western, MAS-dominated departments despite the rapid growth of Santa Cruz, and within departments in favor of rural areas over urban areas. The proposed legislation exacerbates this bias, which would assist the MAS in its drive to obtain a two-thirds majority in the Congress (with which it could amend the constitution at will). Second, the constitution mandates the 130 seats be divided equally in each department between direct election (i.e. vote for a specific diputado) and party vote (i.e. one votes for a party, which later selects the representative). The legislation as written violates the constitution by proposing 70 "direct vote" seats and only 46 "party vote" seats. The remaining 14 seats (to reach 130 total) are to be set aside to ensure indigenous representation. However, the number and location of these "special" indigenous seats is a matter of intense debate, as the MAS has drafted indigenous district boundaries to their benefit. Last, as proposed by the MAS, the candidates for these "special seats" must be approved by closely-allied social groups such as the Confederation of Eastern Bolivian Indigenous Communities (CIDOB), which would essentially ensure MAS representation.

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Morales Denies Intimidating Press...
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¶11. (U) President Morales March 17 lambasted a report by the Inter-American Press Association (SIP) cataloguing an

increase in attacks against the press by Morales, his administration, and affiliated social groups. SIP reported they had registered 46 verbal or physical acts of aggression against members of the media since October 2008, including Morales "public ridiculing" of the La Prensa journalist December 10. In response, Morales invited SIP to come to Bolivia to investigate, saying "Who is the offender here? Evo Morales, or is the press actually offending Evo Morales, as the pueblo knows. The press revises stories, and there is lie after lie. The pueblo knows how they offend us permanently, but no matter."

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...And Denies Human Rights Violations
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¶12. (U) Morales similarly rejected charges of human rights violations made March 20 at the Inter-American Commission on Human Rights (CIDH) by the Lawyers Guild and the Cochabamba Office of Women's Judicial Rights. Charges included the dismantling of the Constitutional Tribunal by illegal means, general impunity of the administration, corruption, a rise of narco-trafficking, violations of freedom of information and expression, violations of sexual and reproductive rights, and violations of the right to health and liberty. Morales invited the Organization of American States (OAS) to come investigate for themselves, specifically mentioning Secretary General Miguel Insulza. "Come see who is violating human rights," Morales said. He then accused the members of the Lawyers Guild of being traitors ("vende patrias").

¶13. (C) In a March 24 meeting with Lawyers Guild President Bernardo Wayar, Wayar told Poloff the Morales administration was trying to ruin him and the Guild. He said the government had formally decreed lawyers should not pay for membership to the Guild, ostensibly to encourage greater access, but really to economically cripple and therefore silence the organization. Wayar also noted the CIDH had issued human rights recommendations in 2006 that the Morales administration had simply ignored. He said he hoped the March 20 testimony would lead to a recommendation to the OAS for formal sanctions against the government. Wayar said he had been under personal attack by the MAS for months, ticking off a list of hostile actions including anonymous phone calls warning his clients to stop working with him and similar phone calls to his home warning him to stop opposing the government.

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Comment
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¶14. (C) Morales continues to persecute (and in some cases prosecute) anyone who stands in the way of the MAS drive to consolidate power, all while staunchly denying any culpability. Post does not expect Morales to slow in his domestic quest to quash all perceived opposition, whether from the press, the judiciary, or potential presidential candidates such as Cardenas.
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